

1 AN ACT relating to sales and use tax.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 139.480 is amended to read as follows:

4 Any other provision of this chapter to the contrary notwithstanding, the terms "sale at
5 retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not
6 include the sale, use, storage, or other consumption of:

- 7 (1) Locomotives or rolling stock, including materials for the construction, repair, or
8 modification thereof, or fuel or supplies for the direct operation of locomotives and
9 trains, used or to be used in interstate commerce;
- 10 (2) Coal for the manufacture of electricity;
- 11 (3) All energy or energy-producing fuels used in the course of manufacturing,
12 processing, mining, or refining and any related distribution, transmission, and
13 transportation services for this energy that are billed to the user, to the extent that
14 the cost of the energy or energy-producing fuels used, and related distribution,
15 transmission, and transportation services for this energy that are billed to the user
16 exceed three percent (3%) of the cost of production. Cost of production shall be
17 computed on the basis of plant facilities which shall mean all permanent structures
18 affixed to real property at one (1) location;
- 19 (4) Livestock of a kind the products of which ordinarily constitute food for human
20 consumption, provided the sales are made for breeding or dairy purposes and by or
21 to a person regularly engaged in the business of farming;
- 22 (5) Poultry for use in breeding or egg production;
- 23 (6) Farm work stock for use in farming operations;
- 24 (7) Seeds, the products of which ordinarily constitute food for human consumption or
25 are to be sold in the regular course of business, and commercial fertilizer to be
26 applied on land, the products from which are to be used for food for human
27 consumption or are to be sold in the regular course of business; provided such sales

- 1 are made to farmers who are regularly engaged in the occupation of tilling and
2 cultivating the soil for the production of crops as a business, or who are regularly
3 engaged in the occupation of raising and feeding livestock or poultry or producing
4 milk for sale; and provided further that tangible personal property so sold is to be
5 used only by those persons designated above who are so purchasing;
- 6 (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be
7 used in the production of crops as a business, or in the raising and feeding of
8 livestock or poultry, the products of which ordinarily constitute food for human
9 consumption;
- 10 (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the
11 products of which ordinarily constitute food for human consumption;
- 12 (10) Machinery for new and expanded industry;
- 13 (11) Farm machinery. As used in this section, the term "farm machinery":
- 14 (a) Means machinery used exclusively and directly in the occupation of:
- 15 1. Tilling the soil for the production of crops as a business;
- 16 2. Raising and feeding livestock or poultry for sale; or
- 17 3. Producing milk for sale;
- 18 (b) Includes machinery, attachments, and replacements therefor, repair parts, and
19 replacement parts which are used or manufactured for use on, or in the
20 operation of farm machinery and which are necessary to the operation of the
21 machinery, and are customarily so used, including but not limited to combine
22 header wagons, combine header trailers, or any other implements specifically
23 designed and used to move or transport a combine head; and
- 24 (c) Does not include:
- 25 1. Automobiles;
- 26 2. Trucks;
- 27 3. Trailers, except combine header trailers; or

- 1 4. Truck-trailer combinations;
- 2 (12) Property which has been certified as a pollution control facility as defined in KRS
3 224.1-300, and all materials, supplies, and repair and replacement parts purchased
4 for use in the operation or maintenance of the facilities used specifically in the steel-
5 making process. The exemption provided in this subsection for materials, supplies,
6 and repair and replacement parts purchased for use in the operation of pollution
7 control facilities shall be effective for sales made through June 30, 1994;
- 8 (13) Tombstones and other memorial grave markers;
- 9 (14) On-farm facilities used exclusively for grain or soybean storing, drying, processing,
10 or handling. The exemption applies to the equipment, machinery, attachments,
11 repair and replacement parts, and any materials incorporated into the construction,
12 renovation, or repair of the facilities;
- 13 (15) On-farm facilities used exclusively for raising poultry or livestock. The exemption
14 shall apply to the equipment, machinery, attachments, repair and replacement parts,
15 and any materials incorporated into the construction, renovation, or repair of the
16 facilities. The exemption shall apply but not be limited to vent board equipment,
17 waterer and feeding systems, brooding systems, ventilation systems, alarm systems,
18 and curtain systems. In addition, the exemption shall apply whether or not the seller
19 is under contract to deliver, assemble, and incorporate into real estate the
20 equipment, machinery, attachments, repair and replacement parts, and any materials
21 incorporated into the construction, renovation, or repair of the facilities;
- 22 (16) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively
23 and directly to:
- 24 (a) Operate farm machinery as defined in subsection (11) of this section;
- 25 (b) Operate on-farm grain or soybean drying facilities as defined in subsection
26 (14) of this section;
- 27 (c) Operate on-farm poultry or livestock facilities defined in subsection (15) of

- 1 this section;
- 2 (d) Operate on-farm ratite facilities defined in subsection (24) of this section;
- 3 (e) Operate on-farm llama or alpaca facilities as defined in subsection (26) of this
- 4 section; or
- 5 (f) Operate on-farm dairy facilities;
- 6 (17) Textbooks, including related workbooks and other course materials, purchased for
- 7 use in a course of study conducted by an institution which qualifies as a nonprofit
- 8 educational institution under KRS 139.495. The term "course materials" means only
- 9 those items specifically required of all students for a particular course but shall not
- 10 include notebooks, paper, pencils, calculators, tape recorders, or similar student
- 11 aids;
- 12 (18) Any property which has been certified as an alcohol production facility as defined in
- 13 KRS 247.910;
- 14 (19) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the
- 15 direct operation of aircraft in interstate commerce and used exclusively for the
- 16 conveyance of property or passengers for hire. Nominal intrastate use shall not
- 17 subject the property to the taxes imposed by this chapter;
- 18 (20) Any property which has been certified as a fluidized bed energy production facility
- 19 as defined in KRS 211.390;
- 20 (21) (a) 1. Any property to be incorporated into the construction, rebuilding,
- 21 modification, or expansion of a blast furnace or any of its components or
- 22 appurtenant equipment or structures as part of an approved supplemental
- 23 project, as defined by KRS 154.26-010; and
- 24 2. Materials, supplies, and repair or replacement parts purchased for use in
- 25 the operation and maintenance of a blast furnace and related carbon
- 26 steel-making operations as part of an approved supplemental project, as
- 27 defined by KRS 154.26-010.

- 1 (b) The exemptions provided in this subsection shall be effective for sales made:
- 2 1. On and after July 1, 2018; and
- 3 2. During the term of a supplemental project agreement entered into
- 4 pursuant to KRS 154.26-090;
- 5 (22) Beginning on October 1, 1986, food or food products purchased for human
- 6 consumption with food coupons issued by the United States Department of
- 7 Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to
- 8 be exempted by the Food Security Act of 1985 in order for the Commonwealth to
- 9 continue participation in the federal food stamp program;
- 10 (23) Machinery or equipment purchased or leased by a business, industry, or
- 11 organization in order to collect, source separate, compress, bale, shred, or otherwise
- 12 handle waste materials if the machinery or equipment is primarily used for recycling
- 13 purposes;
- 14 (24) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and
- 15 production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-
- 16 products, and the following items used in this agricultural pursuit:
- 17 (a) Feed and feed additives;
- 18 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 19 (c) On-farm facilities, including equipment, machinery, attachments, repair and
- 20 replacement parts, and any materials incorporated into the construction,
- 21 renovation, or repair of the facilities. The exemption shall apply to incubation
- 22 systems, egg processing equipment, waterer and feeding systems, brooding
- 23 systems, ventilation systems, alarm systems, and curtain systems. In addition,
- 24 the exemption shall apply whether or not the seller is under contract to deliver,
- 25 assemble, and incorporate into real estate the equipment, machinery,
- 26 attachments, repair and replacement parts, and any materials incorporated into
- 27 the construction, renovation, or repair of the facilities;

- 1 (25) Embryos and semen that are used in the reproduction of livestock, if the products of
2 these embryos and semen ordinarily constitute food for human consumption, and if
3 the sale is made to a person engaged in the business of farming;
- 4 (26) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for
5 the breeding and production of hides, breeding stock, fiber and wool products, meat,
6 and llama and alpaca by-products, and the following items used in this pursuit:
- 7 (a) Feed and feed additives;
- 8 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 9 and
- 10 (c) On-farm facilities, including equipment, machinery, attachments, repair and
11 replacement parts, and any materials incorporated into the construction,
12 renovation, or repair of the facilities. The exemption shall apply to waterer
13 and feeding systems, ventilation systems, and alarm systems. In addition, the
14 exemption shall apply whether or not the seller is under contract to deliver,
15 assemble, and incorporate into real estate the equipment, machinery,
16 attachments, repair and replacement parts, and any materials incorporated into
17 the construction, renovation, or repair of the facilities;
- 18 (27) Baling twine and baling wire for the baling of hay and straw;
- 19 (28) Water sold to a person regularly engaged in the business of farming and used in the:
- 20 (a) Production of crops;
- 21 (b) Production of milk for sale; or
- 22 (c) Raising and feeding of:
- 23 1. Livestock or poultry, the products of which ordinarily constitute food for
24 human consumption; or
- 25 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;
- 26 (29) Buffalos to be used as beasts of burden or in an agricultural pursuit for the
27 production of hides, breeding stock, meat, and buffalo by-products, and the

1 following items used in this pursuit:

2 (a) Feed and feed additives;

3 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

4 (c) On-farm facilities, including equipment, machinery, attachments, repair and
5 replacement parts, and any materials incorporated into the construction,
6 renovation, or repair of the facilities. The exemption shall apply to waterer
7 and feeding systems, ventilation systems, and alarm systems. In addition, the
8 exemption shall apply whether or not the seller is under contract to deliver,
9 assemble, and incorporate into real estate the equipment, machinery,
10 attachments, repair and replacement parts, and any materials incorporated into
11 the construction, renovation, or repair of the facilities;

12 (30) Aquatic organisms sold directly to or raised by a person regularly engaged in the
13 business of producing products of aquaculture, as defined in KRS 260.960, for sale,
14 and the following items used in this pursuit:

15 (a) Feed and feed additives;

16 (b) Water;

17 (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
18 and

19 (d) On-farm facilities, including equipment, machinery, attachments, repair and
20 replacement parts, and any materials incorporated into the construction,
21 renovation, or repair of the facilities and, any gasoline, special fuels, liquefied
22 petroleum gas, or natural gas used to operate the facilities. The exemption
23 shall apply, but not be limited to: waterer and feeding systems; ventilation,
24 aeration, and heating systems; processing and storage systems; production
25 systems such as ponds, tanks, and raceways; harvest and transport equipment
26 and systems; and alarm systems. In addition, the exemption shall apply
27 whether or not the seller is under contract to deliver, assemble, and

1 incorporate into real estate the equipment, machinery, attachments, repair and
2 replacement parts, and any materials incorporated into the construction,
3 renovation, or repair of the facilities;

4 (31) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the
5 production of hides, breeding stock, meat, and cervid by-products, and the
6 following items used in this pursuit:

- 7 (a) Feed and feed additives;
- 8 (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
- 9 (c) On-site facilities, including equipment, machinery, attachments, repair and
10 replacement parts, and any materials incorporated into the construction,
11 renovation, or repair of the facilities. In addition, the exemption shall apply
12 whether or not the seller is under contract to deliver, assemble, and
13 incorporate into real estate the equipment, machinery, attachments, repair and
14 replacement parts, and any materials incorporated into the construction,
15 renovation, or repair of the facilities;

16 (32) (a) Repair or replacement parts for the direct operation or maintenance of a motor
17 vehicle, including any towed unit, used exclusively in interstate commerce for
18 the conveyance of property or passengers for hire, provided the motor vehicle
19 is licensed for use on the highway and its declared gross vehicle weight with
20 any towed unit is forty-four thousand and one (44,001) pounds or greater.
21 Nominal intrastate use shall not subject the property to the taxes imposed by
22 this chapter;

23 (b) Repair or replacement parts for the direct operation and maintenance of a
24 motor vehicle operating under a charter bus certificate issued by the
25 Transportation Cabinet under KRS Chapter 281, or under similar authority
26 granted by the United States Department of Transportation; and

27 (c) For the purposes of this subsection, "repair or replacement parts" means tires,

1 brakes, engines, transmissions, drive trains, chassis, body parts, and their
2 components. "Repair or replacement parts" shall not include fuel, machine
3 oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential
4 to the operation of the motor vehicle itself, except when sold as part of the
5 assembled unit, such as cigarette lighters, radios, lighting fixtures not
6 otherwise required by the manufacturer for operation of the vehicle, or tool or
7 utility boxes;~~and~~

8 (33) Food donated by a retail food establishment or any other entity regulated under KRS
9 217.127 to a nonprofit organization for distribution to the needy; and

10 **(34) Tangible personal property sold to or purchased by a person who is under**
11 **contract to incorporate that tangible personal property into a structure or**
12 **improvement to real estate, if the tangible personal property will:**

13 **(a) Enter into and become a permanent part of the structure or real estate; and**

14 **(b) Be used to fulfill the terms of a contract with:**

15 **1. A federal, state, or local governmental entity that is exempt from tax**
16 **on the purchase of tangible personal property for use in its**
17 **governmental function under KRS 139.470(1) or (7); or**

18 **2. A resident, nonprofit educational, charitable, or religious institution, or a**
19 **resident, disregarded single-member limited liability company, that is exempt**
20 **from tax on the purchase of tangible personal property for use in its educational,**
21 **charitable, or religious function under KRS 139.495.**